



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
DECLARATION AND POWER OF ATTORNEY FOR JOINT INVENTORS  
(Not Accompanying Application)**

As the below named coinventors, we hereby declare that:

Our residences, post office addresses and citizenships are as stated below next to our names. On April 6, 2001 we filed Application Serial No. 09/ 827,833 in the United States Patent and Trademark Office. We believe we are the original, first and joints inventors of the subject matter which is claimed and for which a patent is sought on the invention entitled as follows: **VARIABLE OPTICAL FILTER.**

We hereby state that we have reviewed and understand the contents of the above identified specification and drawings, including the claims, as amended by any amendment referred to above.

We acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56. We further declare that no application for patent or inventor's certificate on this invention has been filed by us, our legal representatives or assigns in any country foreign to the United States of America except as identified below:

**NONE**

We hereby appoint the attorneys of record listed under Customer No. 22885 at ZARLEY, McKEE, THOMTE, VOORHEES & SEASE, 801 Grand Avenue, Suite 3200, Des Moines, Iowa 50309-2721 (telephone number 515-288-3667 and fax number 515-288-1338), as our attorneys to prosecute this application and to transact all business in the Patent Office connected therewith.

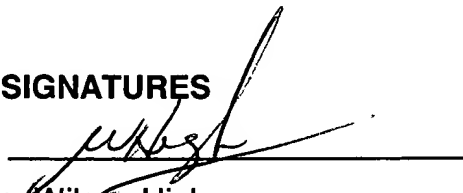
Please direct all correspondence to the attention of **Wendy K. Marsh**, Zarley, McKee, Thomte, Voorhees & Sease, 801 Grand Avenue, Suite 3200, Des Moines, Iowa 50309-2721 (telephone number 515-288-3667).

We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of joint inventor: Martin High  
Residence: Ontario, Canada  
Post Office Address: 17 Prince Andrew Place  
Don Mills, Ontario,  
Canada M3C 2H2  
Country of Citizenship: Canada

**SIGNATURES**

Legal representative's signature:

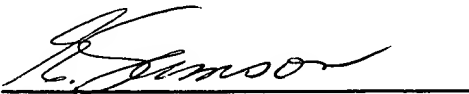


Printed name of legal representative: Wilson High

Post Office address of legal representative: Box 1511, 212 Tupper Street East,  
Killarney, Manitoba R0K 1G0  
Canada

Date: June 20/2001

Legal representative's signature:



Printed name of legal representative: Eleanor Samson

Post Office address of legal representative: 478 Waterloo Street,  
Winnipeg, Manitoba R3N 0S8  
Canada

Date: June 18/01

Legal representative's signature: Gale Ladd

Printed name of legal representative: Gale Ladd

Post Office address of legal representative: 31 Ternhill Crescent,  
Toronto, Ontario M3C 2E4  
Canada

Date: June 28, 2001

Full name of joint inventor: Gary Ball

Residence: Palosveres Estate, California

Post Office Address: 215 - 716 Yarmouth Road.

Palosveres Estate, California 9074

U. S. A.

Country of citizenship: United State of America

Inventor's signature: \_\_\_\_\_

Date: \_\_\_\_\_

This declaration ends with this page.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
DECLARATION AND POWER OF ATTORNEY FOR JOINT INVENTORS  
(Not Accompanying Application)



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We hereby appoint the attorneys of record listed under Customer No. 22885 at ZARLEY, MCKEE, THOMTE, VOORHEES & SEASE, 801 Grand Avenue, Suite 3200, Des Moines, Iowa 50309-2721 (telephone number 515-288-3667 and fax number 515-288-1338), as our attorneys to prosecute this application and to transact all business in the Patent Office connected therewith.

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We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title

18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

**SIGNATURES**

Legal representative's signature: \_\_\_\_\_

Printed name of legal representative: \_\_\_\_\_

Post Office Address of legal representative:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

Full name of joint inventor: Martin High

Residence: Ontario, Canada

Post Office Address: 17 Prince Andrew Place  
Don Mills  
Ontario, Canada M3C 2H2

Country of Citizenship: Canada

Inventor's signature: \_\_\_\_\_

Date: \_\_\_\_\_

Full name of joint inventor: Gary Ball

Residence: Palosveres Estate, California

Post Office Address: 215716 Yarmouth Road  
Palosveres Estate, CA  
90274

Country of Citizenship: United States Of America

Inventor's signature: \_\_\_\_\_

Date: July 24, 2001

This declaration ends with this page.



CANADA

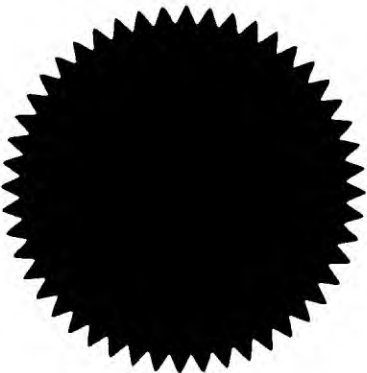
PROVINCE OF ONTARIO

TO WIT:

)  
)  
)  
)  
)

I, **LINDSAY ANN HISTROP**, a Notary Public in and for the Province of Ontario, by Royal Authority duly appointed, residing at the City of Toronto, in the said Province of Ontario, DO CERTIFY AND ATTEST that the paper-writing hereto annexed is a true copy of a document produced to me and being a Certificate of Appointment of Estate Trustee With A Will in the Estate of ALLISON MARTIN HIGH (described in the Will as MARTIN HIGH) late of the City of Toronto, in the Province of Ontario, Executive, deceased, issued out of the Superior Court of Justice at Toronto on the 14<sup>th</sup> day of December, 2000, the said copy having been compared by me with the said original, an act whereof being requested I have granted the same under my notarial form and seal of office to serve and avail as occasion shall or may require.

IN TESTIMONY WHEREOF I have hereto set my hand and affixed my notarial seal at the City of Toronto in the Province of Ontario this 28th day of June, 2001.



Lindsay Ann Histrop  
A Notary Public

ONTARIO

Court file no. 01-4339/00

**SUPERIOR COURT OF JUSTICE** at Toronto

IN THE ESTATE OF ALLISON MARTIN HIGH (described in the Will as , deceased,  
MARTIN HIGH)

late of 31 Ternhill Crescent, Toronto, Ontario, M3C 2E4

occupation Executive

who died on August 2, 2000

**CERTIFICATE OF APPOINTMENT  
OF ESTATE TRUSTEE WITH A WILL**

Applicant	Address	Occupation
GALE LADD	31 Ternhill Crescent Toronto, Ontario, M3C 2E4	Retired Executive
WILSON HIGH	P.O. Box 1511 212 Tupper Street East Killarney, Manitoba, R0K 1G0	Medical Lab Technician
ELEANOR SAMSON	478 Waterloo Street Winnipeg, Manitoba, R3N 0S8	Teacher

This CERTIFICATE OF APPOINTMENT OF ESTATE TRUSTEE WITH A WILL is hereby issued under the seal of the court to the applicant named above. A copy of the deceased's last will (~~and codicil(s), if any~~) is attached.

DATE DECEMBER 14 , 2000.

S. SEERAJ  
PER Registrar

Address of court office  
393 University Avenue  
10th Floor  
Toronto, Ontario  
M5G 1E6





THIS IS THE LAST WILL of me, MARTIN HIGH, of the City of North York, in the Municipality of Metropolitan Toronto, Province of Ontario.

REVOCATION

1. I REVOKE all former wills and other testamentary dispositions made by me.

RRSP DESIGNATION

2. I HEREBY DESIGNATE GALE LADD, if she survives me for a period of thirty (30) days, as the beneficiary upon my death under any Registered Retirement Savings Plan (whether or not the same has matured), under any annuity acquired from the proceeds of a Registered Retirement Savings Plan and under any Registered Retirement Income Fund which I may own at the time of my death to receive all proceeds payable thereunder upon, after or as a result of my death. This is intended as a designation and declaration of beneficiary under the Succession Law Reform Act of Ontario.

EXECUTORS

3. I APPOINT GALE LADD, my brother, WILSON HIGH, and my sister, ELEANOR SAMSON, to be the Executors and Trustees of this my Will. Reference to "my Trustees" in my Will shall include each Executrix, Executor and Trustee of my Will, my estate, or any portion thereof, who may be acting as such from time to time whether original or substituted and whether one or more.

PROPERTY TO TRUSTEES

4. I GIVE all my property wheresoever situate, including any property over which I may have a general power of appointment, to my Trustees upon the following trusts, namely:

mit

Household and Personal Effects

- a. To deliver to GALE LADD, if she survives me for a period of thirty (30) days, all articles of personal, domestic and household use or ornament belonging to me at my death, including all automobiles and accessories thereto then owned by me, for her own use absolutely.

Home

- b. To transfer to GALE LADD, if she survives me for a period of thirty (30) days, any property which I may own and be using as a home at the date of my death, for her own use absolutely.

Debts and Taxes

- c. Subject as hereinafter provided, to pay out of and charge to the capital of my general estate my just debts, funeral and testamentary expenses and all estate, inheritance and succession duties or taxes whether imposed by or pursuant to the law of this or any other jurisdiction whatsoever that may be payable in connection with any property passing (or deemed so to pass by any governing law) on my death or in connection with any insurance on my life or any gift or benefit given or conferred by me either during my lifetime or by survivorship or by this my Will or any Codicil hereto and whether such duties or taxes be payable in respect of estates or interests which fall into possession at my death or at any subsequent time; and I hereby authorize my Trustees to defer, commute or prepay any such taxes or duties. This direction shall not extend to or include any such taxes that may be payable by a purchaser or transferee in connection with any property transferred to or acquired by such purchaser or transferee upon or after my death pursuant to any agreement with respect to such property, provided further that, notwithstanding the foregoing, no income taxes payable by any beneficiary (who is the beneficiary in

accordance with any designation or declaration of beneficiary made by me or who is the beneficiary under my Will) of any Registered Retirement Savings Plans, Registered Retirement Income Funds or of proceeds thereof or income taxes payable by my estate with respect to any such plans or proceeds thereof which are to be paid or transferred to any such beneficiary directly or indirectly through my estate shall be paid out of my general estate as it is my intent and I hereby direct that any such beneficiary shall pay any income tax that may be payable by such beneficiary or by my estate with respect to those plans or any proceeds of those plans out of those plans or the proceeds of those plans; and unless arrangements can be made with the beneficiary to pay such amounts directly, I hereby direct my Trustees, subject as hereinafter provided, to pay any income taxes payable by my estate with respect to any such plans or the proceeds thereof out of those plans or such proceeds or out of other amounts otherwise to be distributed from my estate to the beneficiary(ies) of such plan(s), the amount of such taxes to be an amount equal to the total of (1) the difference between the tax that would have been payable with respect to the portion of the year in which I die to the date of my death ("year of my death") if I had not owned any such plans and the tax actually payable by my estate with respect to the year of my death; and (2) the difference between the income tax that would have been payable by my estate for any period after my death if no such plans had been held by me at my death and the tax actually payable by my estate; the proportion of all such taxes that shall be borne by each beneficiary (or by such beneficiary's interest in my estate) of such plans or proceeds shall be the same as the proportionate share of all such plans or proceeds to which such beneficiary is entitled.

#### Residue

- d. To divide the residue of my estate into the number of equal shares necessary to give effect to the following distribution and to pay or transfer such equal

shares to each of the following persons, subject as hereinafter provided, for his or her own use absolutely:

- i. to GALE LADD, if she survives me for a period of thirty (30) days, ten such equal shares;
- ii. to ELEANOR SAMSON, if she survives me, two such equal shares;
- iii. to KATHRYN BEATTIE, if she survives me, two such equal shares;
- iv. to WILSON HIGH, if he survives me, two such equal shares;
- v. to MICHAEL FACCIOL, if he survives me, two such equal shares;
- vi. to PATRICIA FACCIOL, if she survives me, two such equal shares;
- vii. to ELIZABETH FACCIOL, if she survives me, two such equal shares; and
- viii. to ROBERT LARMOUR, if he survives me, two such equal shares.

#### HOLDING FOR MINORS

5. IF ANY PERSON should become entitled to any share in my estate before attaining the age of majority, the share of such person shall be held and kept invested by my Trustees and the income and capital or so much thereof as my Trustees in their absolute discretion consider necessary or advisable shall be used for the benefit of such person until he or she attains the age of majority.

#### PAYMENTS FOR MINORS

6. I AUTHORIZE my Trustees to make any payments for any person under the age of majority to a parent or guardian of such person or to any other person my Trustees may consider to be a proper recipient therefor whose receipt shall be a sufficient discharge to my Trustees.

#### POWER TO SELL OR HOLD

7. I AUTHORIZE my Trustees to use their discretion in the realization of my estate, with power to ~~sell~~, call in and convert into money any part of my estate not consisting of money at such time or times, in such manner and upon such terms, and either for cash or credit or for part cash and part credit as they may in their absolute discretion decide upon, or to postpone such conversion of my estate or any part or parts thereof for such length of time as they may think best. My Trustees shall have a separate and substantive power to retain any of my investments or assets in the form existing at the date of my death at their absolute discretion without responsibility for loss to the intent that investments or assets so retained shall be deemed to be authorized investments for all purposes of this my Will. No reversionary or future interest shall be sold prior to falling into possession and no such interest not actually producing income shall be treated as producing income.

#### INVESTMENTS

8. WHENEVER it becomes necessary for my Trustees to invest any moneys held in connection with my estate, I will and declare that my Trustees in making such investment shall not be limited to investments authorized by law for trustees but may invest in any investment that in their uncontrolled discretion they consider advisable and my Trustees shall not be held responsible for any loss that may be occasioned by any such investment made by them in good faith.

#### DISTRIBUTION IN KIND

9. MY TRUSTEES may make any division of my estate or set aside or pay any share or interest therein either wholly or in part in the assets forming my estate at the time of my death or at the time of such division, setting aside or payment, and I expressly will and declare that my Trustees shall in their absolute discretion fix the value of my estate or any part thereof for the purpose of making any such division,

setting aside or payment and the decision of my Trustees shall be final and binding upon all persons concerned.

#### REAL ESTATE

10. I AUTHORIZE my Trustees to sell, partition, exchange or otherwise dispose of the whole or any part of my real property in such manner, at such time and upon such terms as to credit or otherwise as they in their discretion consider advisable, with power to accept a purchase money mortgage or mortgages for any part of the purchase or exchange price; also to mortgage, lease for any term of years, alter, repair, improve or rebuild the same as my Trustees may deem expedient. I also give to my Trustees power to execute and deliver such deeds, mortgages, leases or other instruments as may be necessary to effect such a sale, mortgage, lease or other disposition. The power of sale herein is discretionary and not mandatory.

#### LENDING AND BORROWING

11. I AUTHORIZE and empower my Trustees to do the following all for the benefit of the beneficiaries of my Will and any firms or corporations in which my estate or any beneficiary of my Will has an interest:

to lend the whole or any part of my estate upon any security which they may deem sufficient, or upon no security whatever, and with or without interest;

to enter into guarantees or indemnifications and to give security therefor as my Trustees may in their discretion decide; and to renew and keep renewed such guarantees and indemnifications and any guarantees and indemnifications outstanding at my death, or to reorganize or consent to any change in any security held or given for such guarantees and indemnities, as my Trustees see fit;

to borrow money from themselves individually or from others, either without security or upon the security of any of the property, real or personal, held by them under my Will for such purposes and upon such terms and conditions as they shall deem advisable and including, without limiting the generality of the foregoing, for the payment of taxes, debts, duties, legacies or expenses; and to pay to themselves reasonable interest on loans made to my Estate;

to mortgage, pledge, hypothecate or otherwise encumber any or all of the property of my estate to secure the repayment of money borrowed and may extend or modify any such encumbrance without limitation.

#### ADVISORS

12. I AUTHORIZE my Trustees to employ and pay out of my estate such professional or other advisors as my Trustees may deem necessary in the discharge of their duties and to act upon such advice and opinions as they may receive from any such professional or other so employed and my Trustees shall not be liable or responsible for any loss that may be occasioned to my estate by reason of their so doing.

#### BUSINESS INTERESTS

13. WITHOUT in any way restricting the general power and discretion in this my Will given to my Trustees I hereby specifically authorize and empower them to continue and carry on any business which I may own or in which I may be interested at the time of my death and either alone or in partnership with any person or persons who may be a partner or partners therein for the time being for such length of time as in their uncontrolled discretion my Trustees may consider to be in the best interests of my estate, and I give to my Trustees power to do all things necessary or advisable for the carrying on of any such business and in particular but without limiting the generality of the foregoing my Trustees shall have the following powers, namely:

- a. They may from time to time upon the expiration of the term of any partnership renew the same for any period determined or otherwise and at any time or times vary any or all of the terms contained in any partnership articles.
- b. They may employ therein or withdraw therefrom any capital which may be employed therein at my death or advance with or without taking security any additional capital which they may deem desirable for effectually carrying on such business.
- c. They may arrange and agree to the introduction at any time or times of any person or persons as a partner therein and as to the division of the profits thereof or the payment of any sum or sums in lieu of profits to any partner and as to the hiring or employment of any person or persons therein (including any one or more of my Trustees) at such salary or remuneration as they shall think proper and as to the extension or curtailment of the business thereof or the adoption of any new line of business.
- d. They may form or join in forming a limited company for the purpose of taking over or purchasing the whole or any part of any such business or may sell the same to a limited company at such price and subject to such terms and conditions as my Trustees may determine and in consideration for any such taking over or sale may accept cash, bonds, notes, preference or common shares of any company whether or not such company is the company taking over or purchasing as aforesaid, or all or any of the aforesaid as my Trustees may think fit and any bonds, notes, preference or common shares so received shall be an authorized investment under this my Will.

In connection with my shares in the capital stock of Applied Physics Specialties Limited, it is my wish that the employees of that corporation will be given a reasonable opportunity by



my Trustees to match any offer for the said shares which is received from an outside purchaser.

#### SETTLEMENT OF CLAIMS

14. I AUTHORIZE AND EMPOWER my Trustees to compromise, settle, waive or pay any claim or claims at any time owing by my estate or which my estate may have against others for such consideration or no consideration and upon such terms and conditions as my Trustees may deem advisable and to refer to arbitration all such claims if my Trustees deem same advisable.

#### LIMITING INTERESTS OF SPOUSES OF BENEFICIARIES

15. I DECLARE that no gift, or the income therefrom, under this my Will shall be assigned or anticipated, or fall into any community of property, partnership or other form of sharing or division of property which may exist between any beneficiary and his or her spouse, and every gift together with the income therefrom shall remain the separate property of a beneficiary hereunder, free from all matrimonial rights or controls by his or her spouse. Without limiting the generality of the foregoing, I direct that all of the gifts and other benefits granted by me under this my Will and all the income derived therefrom shall be excluded from net family property of a beneficiary and the value thereof shall not be subject to division between a beneficiary and his or her spouse pursuant to the Ontario Family Law Act, 1986 or any successor legislation thereto. All references to income contained in this paragraph of this my Will are intended by me and shall be deemed to include capital gains as well as any other accretions to capital arising from a gift or benefit hereunder.

### SALE OF ESTATE ASSETS TO TRUSTEES

16. I SPECIFICALLY authorize any of my Trustees to purchase any assets of my estate (or of any corporation in which my estate may have an interest) at the fair market value thereof at the time of purchase as determined by the others or other of my Trustees and on such terms as they may approve. It shall not be necessary for any of my Trustees to retire or obtain the approval of any Court or Judge to be a purchaser as aforesaid.

### TRUSTEES' COMPENSATION

17. I AUTHORIZE my Trustees to take and transfer to themselves, at reasonable intervals from the income and/or capital of my estate, amounts on account of compensation which my Trustees reasonably anticipate will be requested at the end of the accounting period in progress, either upon the audit of the estate accounts or on approval by the beneficiaries of my estate. Provided, however, that if the amount subsequently awarded on Court audit or agreed to by the beneficiaries is less than the amount so pre-taken, the difference shall be repaid forthwith to the estate without interest. Any Trustee of my Will who is a professional person shall be entitled to be paid reasonable fees in addition to any executor's or trustee's compensation for professional services rendered by such Trustee or by any partner, associate or employee of such Trustee or by any company of which such Trustee is an employee. No bequest to any Trustee is given in lieu of compensation.

### HEADINGS

18. The paragraph headings in my Will are for convenience only and shall not be construed to affect the meaning of the paragraphs so headed.

IN WITNESS WHEREOF I have to this my Last Will, written upon this and ten  
(10) preceding pages, subscribed my name this 11th day of June  
1997.

SIGNED by the testator, MARTIN HIGH,  
as his last Will, in the presence of us, both  
present at the same time, who at his  
request, in his presence and in the presence  
of each other have hereunto subscribed our  
names as witnesses.

M. High

WITNESS: T. Ouchterlony

WITNESS: Adrian G. Burke

Name: Thomas W. Ouchterlony

Name: ADRIAN G. BURKE

Address: 40 King Street West

Address: 287 BRIMLEY ROAD

Toronto, Ontario M5H 3Y4

SCARBOROUGH CNT. M1J 1C8

Occupation: Solicitor

Occupation: SCHEDULER

CERTIFIED A TRUE COPY OF THE WILL  
COPIE CERTIFIÉE CONFORME AU  
FILED IN THIS OFFICE  
TESTAMENT DÉPOSÉ DANS CE BUREAU

ON  
LE

DEC 14 2000

S. Murray  
LOCAL REGISTRAR GREFFIER LOCAL  
SUPERIOR COURT OF JUSTICE COUR SUPÉRIEURE DE JUSTICE

Court file no. 01-4339/00

**SUPERIOR COURT OF JUSTICE**  
at Toronto

IN THE ESTATE OF ALLISON MARTIN HIGH  
(described in the will as  
MARTIN HIGH), deceased.

**CERTIFICATE OF APPOINTMENT  
OF ESTATE TRUSTEE WITH A WILL**

(Form 74.13 under the Rules)  
APRIL 1999

DYE & DURHAM—Form 516

Name, address, telephone and fax number of solicitor or applicant:

Aird & Berlis  
BCE Place  
Suite 1800, Box 754  
181 Bay Street  
Toronto, Ontario  
M5J 2T9

Lindsay Ann Histrop  
Solicitor(s) for the Applicants  
Telephone 416-863-1500